

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

GE HFS HOLDINGS, INC., f/k/a)
HELLER HEALTHCARE FINANCE,)
INC.,)
)
Plaintiff,)
)
And)
)
MICHAEL INGOLDSBY,)
)
Intervenor/Plaintiff,)
)
v.)
)
NATIONAL UNION FIRE)
INSURANCE COMPANY OF)
PITTSBURGH, PA., and)
INTERNATIONAL INSURANCE)
GROUP, LTD.,)
)
Defendants.)

Civil Action No. 05-CV-11128-NG

**DEFENDANT NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH,
PA'S MOTION TO STRIKE PLAINTIFF-INTERVENOR MICHAEL INGOLDSBY'S
CROSS-MOTION FOR SUMMARY JUDGMENT**

Defendant National Union Fire Insurance Company of Pittsburgh, PA ("National Union") hereby moves to strike Plaintiff-Intervenor Michael Ingoldsby's ("Mr. Ingoldsby") Cross-Motion for Summary Judgment ("Cross-Motion"). For the reasons set forth below, Mr. Ingoldsby's Cross-Motion should be stricken.

On September 22, 2006, the Court entered a Scheduling Order in this matter (the "Scheduling Order"). A true and accurate copy of the Scheduling Order is attached hereto as Exhibit A. Among other things, the Scheduling Order stated that "[a]ny motions for summary judgment shall be filed by **October 31, 2006**" (Emphasis in original).

On October 31, 2006, National Union and Defendant International Insurance Group, Ltd. each filed Motions for Summary Judgment and supporting papers. Mr. Ingoldsby did not file any motion for summary judgment prior to the deadline, nor did he seek an extension of time or leave to file a motion thereafter.

On December 1, 2006, in conjunction with his Opposition to National Union's Motion for Summary Judgment, Mr. Ingoldsby purported to file the Cross-Motion. The Cross-Motion is untimely, having been filed over a month after the Court's clearly-imposed deadline for filing motions for summary judgment.

Therefore, Mr. Ingoldsby's Cross-Motion should be stricken as it is untimely.

NATIONAL UNION FIRE INSURANCE
COMPANY OF PITTSBURGH, PA

By its attorneys,

Dated: December 8, 2006

/s/ Joey H. Lee
John D. Hughes (BBO# 243660)
Joey H. Lee (BBO# 663803)
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CERTIFICATE OF SERVICE

I, Joey H. Lee, hereby certify that on this 8th day of December, 2006, I served a copy of the foregoing Motion to Strike via ECF on Gregory J. Aceto, Johnson & Aceto, P.C., 67 Batterymarch Street, Suite 400, Boston, MA 02110 and Richard E. Heifetz, Tucker, Heifetz & Saltzman, LLP, Three School Street, Boston, MA 02108.

/s/ Joey H. Lee
Joey H. Lee

EXHIBIT A

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

GE HFS HOLDINGS, INC., f/k/a)	
HELLER HEALTHCARE FINANCE, INC.,)	
)	
Plaintiff,)	
and)	
)	
MICHAEL INGOLDSBY,)	
)	
Intervenor Plaintiff,)	CIVIL ACTION
v.)	NO. 05-11128-NG
)	
NATIONAL UNION FIRE INSURANCE)	
COMPANY OF PITTSBURGH, PA. and)	
INTERNATIONAL INSURANCE)	
GROUP, LTD.,)	
)	
Defendants.)	

SCHEDULING ORDER

Following a status conference held on September 21, 2006 pursuant to Fed. R.

Civ. P. 16(a), the Court hereby ORDERS as follows:

1. Defendant National Union Fire Insurance Company of Pittsburgh agrees to withdraw its motion for summary judgment (Docket No. 34) without prejudice.
2. The parties shall complete all fact discovery by **October 31, 2006**.
3. Any motions for summary judgment shall be filed by **November 10, 2006**.
Oppositions to motions for summary judgment shall be filed by **December 1, 2006**; any replies shall be filed by **December 8, 2006**.
4. Any concise statement of material facts that is filed pursuant to Local Rule

56.1 in opposition to a motion for summary judgment shall include numbered paragraphs admitting or denying, paragraph by paragraph, the facts contained in the moving party's concise statement of material facts.

5. A hearing on motions for summary judgment shall take place on **December 19, 2006 at 2:30 p.m.** in Courtroom #15 on the 5th floor.

/ s / Judith Gail Dein
Judith Gail Dein
United States Magistrate Judge

DATED: September 22, 2006